

CHAPTER 7-04

OPERATION OF ASSOCIATIONS

7-04-01. Shareholders - Definition - Voting privileges. The owners of shares in an association are known as shareholders. Each shareholder is entitled to vote in person or by proxy at all meetings of the association and has one vote for each share owned and held by that shareholder. Each borrower in such association is deemed to be a member thereof until the borrower's loan has been paid in full and is entitled to one vote, in person or by proxy, as such member.

7-04-02. Transfer of shares - Effect - Fee. No transfer of shares is binding upon the association until it has been made upon its books. The transferee thereof shall take shares subject to all the obligations, liabilities, and conditions attaching thereto or secured thereby. No transfer fee in excess of twenty-five cents per share may be charged. Shares are nonnegotiable, and payments on shares made by the association to the holders of record are a full discharge thereof.

7-04-03. Meetings of shareholders. Every domestic association shall provide in its bylaws for at least one regular annual meeting of shareholders to be held in January in each year. All meetings of shareholders must be held at the association's office or principal place of business in this state. The holders of twenty-five percent of the shares constitute a quorum, and the shareholders may be present personally or represented by proxy. Notice of any regular or special meeting must be given by the secretary as provided in this chapter.

7-04-04. Meetings called by directors. The board of directors of a domestic association has the right to call a special meeting at any time, and within twenty days after the filing of a petition therefor by shareholders owning twenty-five percent or more of the issued shares of the association, it shall call a special meeting.

7-04-05. Notice of meetings. At least thirty days prior to any annual or special meeting of any association, a notice stating the time and place of such meeting must be published at least once each week for two successive weeks in some newspaper of general circulation printed and published in the city wherein the association has its principal place of business if one is printed or published therein. If no such newspaper is printed or published therein, notice must be given in the same manner in a newspaper printed or published in the nearest city in which a newspaper is printed or published. A notice of a special meeting must include a statement of any matter or matters to be considered at such special meeting. An association may give its shareholders personal notice or notice by registered or certified mail at least thirty days prior to any regular or special meeting in lieu of the publication herein required.

7-04-06. Deposit accounts - Restrictions. No association may carry or have upon its books at any time any demand, commercial, or checking account, or any credit to be withdrawn upon the presentation of any negotiable check or draft, and no association may receive any savings account or any sum of money which does not represent a payment made upon the shares of the association.

7-04-07. Shares - Joint ownership. Repealed by S.L. 1973, ch. 257, § 82.

7-04-08. Shares - Ownership in trust - Payment. Whether any shares shall be purchased in any building and loan association by any person in trust for another, and no other notice of the existence and terms of a legal and valid trust has been given in writing to the association, in the event of the death of the trustee, the proceeds of such shares or any part thereof, together with the interest or dividends thereon, may be paid to the person for whom said shares were purchased.

7-04-09. Shares - Fiduciaries, trustees, corporations, and banks - Investments. Administrators, executors, guardians, trustees, and other fiduciaries of every kind and nature, banks and other financial institutions, charitable, educational, eleemosynary, and public

corporations and organizations, municipalities, and public officials may invest funds held by them, without any order of any court, in shares, certificates of deposit, and investment certificates of savings and loan associations which are under state supervision, and shares of federal savings and loan associations organized under the laws of the United States and under federal supervision, and such investments are legal investments for such funds. Whenever, under the laws of this state or otherwise, a deposit of securities is required for any purpose, the securities made legal investments by this section are acceptable for the deposit, and whenever, under the laws of this state or otherwise, a bond is required with security, the bond may be furnished, and securities made legal investments by this section, in the amount of the bond, when deposited therewith, are acceptable as security without other security. This section is supplemental to any other laws relating to and declaring what are legal investments for the persons, corporations, organizations, and officials referred to in this section and to the laws relating to the deposit of securities and the making and filing of bonds for any purpose.

7-04-10. Shares purchased by minors. Shares purchased by any minor must be held for the exclusive right and benefit of the minor, and may be paid, with any interest due thereon, to the person in whose name the shares have been purchased. The receipt of such minor is sufficient release or discharge for such shares to the association.

7-04-11. Fund for contingent losses. An amount, to be determined by the board of directors, must be set aside in a fund for contingent losses, but not less than five percent of the annual net earnings of the association must be set aside to such fund until it reaches at least five percent of the assets of such association. Such fund must be known and designated as the reserve fund. All losses must be paid out of the fund until it is exhausted and whenever the amount in such fund falls below five percent of the assets as required in this section it must be replenished by annual appropriations of at least five percent of the earnings until it again reaches said amount.

7-04-12. Expenses - How paid. All expenses of any association must be paid out of the earnings only in such manner as may be provided in its bylaws.

7-04-13. Loans to members. Loans may be made to members on notes secured by mortgages which shall be a first lien on improved real property. Such loans may not exceed seventy-five percent of the cash value of such property and shall be payable in shares of the association or by periodical installments; provided, however, that, as to percentage of loan to value, such percentage as is permitted for federal-chartered associations is also legal, for loan purposes, for any federally insured state-chartered association in the territory in which such state association is authorized to operate, any provision herein contained notwithstanding. When an association holds a mortgage on real property which is a first and prior lien thereon, the association may increase its loan thereon and secure the same by a second or subsequent mortgage payable in installments. A prior lien or encumbrance on real property, upon which the association holds a subsequent mortgage or encumbrance, may be sold, transferred, or assigned, but the aggregate amount of such outstanding and unsatisfied prior liens or encumbrances so sold, transferred, or assigned may not exceed ten percent of the association's assets at any one time and may not in any event exceed the amount of its reserve fund. The total indebtedness of a member to the association, less the amount of dues paid on the shares pledged for a loan, may not exceed seventy-five percent of the cash value of the real property securing the loan. An association may permit members to secure the repayment of loans by giving the association a straight note and mortgage on real property for a fixed period, but in such event the amount of the loan may not exceed fifty percent of the cash value of the property, and the loan must be approved by the board of directors prior to the granting thereof. No association may make straight loans on real property in excess of ten percent of the assets of the association, and neither fines nor penalties may be collected on a straight note and mortgage. Loans may be made on the mutual plan or on the definite contract plan. Loans made on the mutual plan must be accompanied by a pledge of shares having a matured or par value equal to the face of the loan, and become due and payable upon the date of maturity of the stock of the borrowing member pledged as collateral security to such loan, but the payments made by the borrower upon the shares so pledged may not be considered as payments upon the principal of the loan. Definite contract loans shall be repayable in a definite number of equal periodical

installments to be set out in the note or obligation, each in an amount sufficient so that the aggregate of all will repay the principal of the loan, together with the interest on the unpaid periodical balances, within the time and at the rate agreed upon. Upon the pledge as collateral security of shares of such association, loans may be made to shareholders in an amount up to one hundred percent of the withdrawal value of shares pledged.

7-04-14. Advancement of funds to protect liens. Repealed by S.L. 1961, ch. 114, § 1.

7-04-15. Loans to officers and directors. No association may make a mortgage loan to an officer or director thereof until such loan first is approved unanimously by the board of directors, such approval to be recorded by aye and nay vote in the minutes of the meeting of the board.

7-04-16. Limitation of loans. It is unlawful for any association, the assets of which do not exceed fifty thousand dollars, to make loans exceeding five thousand dollars in the aggregate upon any one piece of property. If its assets exceed fifty thousand dollars but do not exceed one hundred thousand dollars, it is unlawful for it to make loans exceeding seven thousand five hundred dollars in the aggregate upon any one piece of property. If its assets exceed one hundred thousand dollars but do not exceed two hundred thousand dollars, it is unlawful for it to make loans exceeding ten thousand dollars in the aggregate upon any one piece of property. If its assets exceed two hundred thousand dollars but do not exceed five hundred thousand dollars, it is unlawful for it to make loans exceeding fifteen thousand dollars in the aggregate upon any one piece of property. If its assets exceed five hundred thousand dollars, it is unlawful for it to make loans exceeding three percent of its assets upon any one piece of property. Any loan exceeding twenty thousand dollars, before being accepted and passed by any association, must have the approval of an affirmative vote of two-thirds of the members of the board of directors of such association, and such vote must be recorded.

7-04-17. Repayment of loans. A shareholder may repay at any time any loan made to that shareholder by an association by paying the principal due thereon less the withdrawal value of the shares transferred as security therefor, the interest accrued at the date of such repayment, and all sums advanced by the association for taxes, assessments, insurance premiums, maintenance, repairs, modernization, and improvements, with interest thereon and in addition thereto:

1. Interest on the principal repaid for a period of three months after the day of repayment, or any such borrowing member may pay upon any such loan a sum equal to the matured value of one or more of the installment shares transferred and pledged as security therefor, upon the same proportionate terms as are provided in this section for payment in full;
2. Interest upon such principal for the whole year when so provided in the bylaws of the association, if the repayment is made at any time within one year from the date of the mortgage or other evidence of debt;
3. If any such association is in the process of voluntary liquidation, the shares of a borrowing shareholder shall be entitled to full participation in the current earnings of such association, and their value as thus determined must be applied upon the indebtedness of such member; and
4. If any such association is in the process of involuntary liquidation, the minimum value of the shares owned by the borrowing shareholder, after allowing for all possible losses and the expenses of liquidation, may be allowed in the reduction of that person's indebtedness, and that person is entitled to receive that person's proportionate share of any further sums that thereafter may be realized from the assets of such association. Nothing in this section may be construed to prevent the reduction of any such association's liability to its members, in accordance with section 7-04-20.

7-04-18. Application of share value on foreclosure. Whenever any mortgage is foreclosed by an association, the withdrawal value of the shares transferred and pledged to the association for the payment of the loan must be applied to the extinguishment of the indebtedness of the shareholder and that shareholder's right under such shares terminates.

7-04-19. Conveying property mortgaged to association. The conveyance or transfer of property mortgaged to an association acts as a transfer also of the shares of such association securing said loan. If a borrowing shareholder of such association conveys the title to any property upon which such shareholder has given to the association a mortgage lien without the purchaser's assuming the payment of the indebtedness to the association thereby secured, the board of directors in its discretion may declare the entire indebtedness due and may proceed to the collection of the debt in the manner provided by the bylaws of the association and by this title.

7-04-20. Reduction of liability to shareholders. Whenever the losses of any association resulting from depreciation in value of its securities or otherwise exceed its reserve, undivided profits, and current earnings so that the estimated value of its assets is less than the total amount due its members, the commissioner of financial institutions, upon petition of such building and loan association, may order a reduction of its liability to shareholders in such manner as to distribute the loss equitably among such shareholders. If thereafter such association realizes from such assets a greater amount than was fixed in the order of reduction, such excess must be divided among shareholders whose credits were so reduced, but to the extent of such reduction only.

7-04-21. Unpaid interest not distributable as profits. Interest unpaid, although due or accrued, on debts owing to any association may not be included in distribution of its profits.

7-04-22. Investment of reserve and undivided profits. Any residue of earnings, after expenses, reserve fund, and dividends are provided for, may be held as undivided profits to be used as other earnings, but such undivided profit fund at no time may exceed three percent of the association's assets. The board of directors may invest all reserve funds and undivided profit funds in the manner and in the class of securities provided in this title for the investment of other funds of the association.

7-04-23. Retention of records - Actions for unpaid balances. No association may be required to preserve its records of account or files for a longer period than six years next after the first day of January of the year following the date of such record or files. Ledger sheets showing unpaid balances in favor of depositors or investors may not be destroyed unless a photostatic copy is retained under section 31-08-01.1, and this section does not limit the time when actions may be brought to recover such balances.